

U.S. Application No. 09/834,208  
Applicant: *Wolf*

### ***Remarks***

Reconsideration of this Application is respectfully requested.

Claims 1-3 are pending in the application, with claim 1 being the independent claim.

Based on the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

### ***Objection to Drawings***

The drawings have been objected to under 37 CFR 1.83(a) by the Examiner as failing to show wherein the elastic bands are affixed at two separate points on the mask as described in the specification.

Applicant respectfully disagrees with the Examiner. The specification does not state that "the elastic bands are affixed at two separate points on the mask." Rather, the specification describes that the adjustable elastic loops are "preferably attached to the periphery 20 of the mask at two or four points of attachment 26." Figure 2 clearly identifies that 26 is the adjustable attachment site for elastic loop 24. The specification describes how the loops are adjusted by pulling the loose ends secured at points 26 (page 4, paragraph 2 of the specification) and how each loop could be secured to the mask at one point on each side of the mask but experiment use has favored two attachments on each side of the mask (page 4, paragraph 1 of the specification). From Figure 2 and these portions of the specification, it is clear that "adjustable elastic loops 24 that are preferably attached to the periphery 20 of the mask at *two* or *four* points of attachment

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26" (emphasis added) means that the loops have *two* points or *four* points of attachment which are adjustable. Applicant believes that both the figure and description of the drawing in the specification are in agreement and that one of ordinary skill in the art would recognize that "adjustable elastic loops 24 that are preferably attached to the periphery 20 of the mask at two or four points of attachment 26" has sufficient structural detail in the drawing to provide a proper understanding of the disclosed invention.

***Rejection of Claims under 35 U.S.C. 102(b)***

Claims 1-3 have been rejected under 35 U.S.C. 102(b) as being anticipated by Brunner (US Patent No. 2,281,744).

Applicant respectfully disagrees that the '744 patent anticipates the claims. The instant claims are directed toward an oxygen mask with specific features for securing the mask to a wearer's face. U.S. Patent No. 2,281,744 is directed to a mask which covers the face of the wearer to protect against the transmission of germs from the wearer of the mask and for the protection from dust, pollen, etc. (page 1, col. 1, lines 1-9). The mask taught by Brunner is made from a cloth material. An artisan could not use such a mask for the delivery of oxygen and would recognize that the mask is not capable of being used for the delivery of oxygen. The mask taught by the '744 patent does not teach how oxygen would be delivered to the wearer. This is in contrast to what is disclosed in the instant application, which provides an oxygen mask and which clearly shows how oxygen is delivered to a wearer of the mask (Figures 1 and 2). The instant specification discloses a mask material, plastic, which is consistent with its use to deliver

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a gas such as oxygen. The material used is of necessity a material through which a gas cannot readily pass, in order to enable the use of the mask of the invention to be used to deliver oxygen.

The instant claims are directed to an oxygen mask, and as such serve as a claim limitation for the mask. The wording "oxygen" preceding "mask" provides structure and function to the mask of the instant claims, i.e. the mask is an oxygen mask which is recognized by a reasonable person as a mask used for the delivery of oxygen.

Additionally, the instant claims are directed to an oxygen mask comprising a pair of elastic bands, where both ends of each pair is affixed at points of attachment to each of *both* sides of the mask and where the points of *attachment* and points of *adjustment* for the loops are the same (the loops are adjusted by pulling through each of the points of attachment).

This is in contrast to the mask taught by the '744 patent, which teaches a cloth mask comprising adjustable loops whereby the points of *attachment* and points of *adjustment* for the loops are not on both sides of the mask. The '744 in Figure 2 teaches a permanent point of attachment for a loop at 7 with entry of the loop through a buttonhole or eyelet at 8. The point of adjustment of loops is centrally located at the bottom of the mask at a buttonhole or eyelet at 9 through the use of a slide 10.

Use of the mask as described in the '744 patent results in the gathering of the lower part of the cloth mask to conform to the wearer's face, in accordance with the design of the mask (page 1, col. 2, lines 32-37). This is again in contrast to the instantly disclosed mask, where adjustment of the bands through the points of attachment results in the body of the mask placed tighter against the wearer's face.

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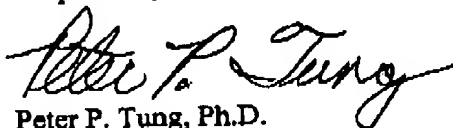
Therefore, U.S. Patent No. 2,281,744 does not teach or suggest a mask that would be able to deliver oxygen to the wearer and furthermore does not teach or suggest a mask with attachments and adjustments as described in the instant claims. As the instant claims are not anticipated by the referenced patent, applicant respectfully requests the Examiner withdraw the rejection under 35 U.S.C. 102(b).

### ***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,



Peter P. Tung, Ph.D.  
Agent for Applicant  
Registration No. 51,269

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6467 Galway Drive  
Clarksville, Maryland 21029  
(443)691-0177